

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BENEDICT MORAN,
4350 de Lanaudiere
Montreal, QC H2J 3P2
Canada

Civil Action No. 1:23-cv-395

Plaintiff,

v.

U.S. DEPARTMENT OF STATE,
The Executive Office
Office of the Legal Adviser, Room 5519
2201 C Street, NW
Washington, DC 20520

Defendant.

COMPLAINT

(Freedom of Information Act)

1. Plaintiff Benedict Moran, by his undersigned attorneys, brings this action against Defendant U.S. Department of State (“State Department”) under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, *et seq.*, seeking declaratory, injunctive and other appropriate relief to compel compliance with the requirements of FOIA.

2. Plaintiff has, over a four and a half year period, filed six FOIA requests (“Plaintiff’s FOIA Requests”) to Defendant seeking records related to information prepared by, or in the possession of, the State Department regarding human rights violations occurring in Rwanda. The State Department has failed to meet its statutory obligations to provide substantive responses to Plaintiff’s FOIA Requests. The State Department has not produced any records responsive to any of Plaintiff’s FOIA Requests.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

4. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

PARTIES

5. Plaintiff is a journalist and independent filmmaker whose work focuses on humanitarian emergencies, global health and development, and the environment. He has directed, reported, and produced for The Guardian, PBS Frontline, The New Yorker, Newshour, Al Jazeera, Vice news, the Christian Science Monitor, Foreign Policy, National Public Radio, CBC News, Public Radio International, France24, and others. Plaintiff was the silver medal winner of the Ricardo Ortega Memorial Prize in 2019 and the gold medal winner of the Elizabeth Neuffer Memorial Prize from the United Nations Correspondents Association in 2015.

6. Defendant is an agency of the executive branch of the U.S. government headquartered in Washington, DC, and an agency of the government within the meaning of 5 U.S.C. § 552(f)(1). The State Department has possession, custody, and control of the records that Plaintiff seeks.

STATEMENT OF FACTS

7. On May 3, 2018, Plaintiff submitted his first FOIA request to the State Department seeking records related to the State Department's knowledge of potential human rights violations in Rwanda. Nearly two and a half years later, on November 19, 2020, the State Department finally confirmed that this request was being processed. A copy of this request and the State Department's response is attached hereto as Exhibit A and incorporated herein. The

State Department has not provided a substantive response to this FOIA request, and has not produced any requested records.

8. On November 17, 2020, Plaintiff submitted a second FOIA request to the State Department, seeking records within specific search parameters related to U.S. knowledge of or activities relating to the Kagame regime and the “March 23 Movement” in Rwanda. On November 23, 2020, the State Department confirmed receipt of this request. Nine months later, on August 24, 2021, the State Department confirmed that this request was being processed. A copy of this request and the State Department’s responses are attached hereto as Exhibit B and incorporated herein. The State Department has not provided a substantive response to this FOIA request, and has not produced any requested records.

9. On March 21, 2022, Plaintiff submitted a third FOIA request to the State Department seeking records, based on specific search terms and from specified custodians, relating to the human rights violations in Rwanda. On March 24, 2022, the State Department confirmed that this request was being processed. A copy of this request and the State Department’s response is attached hereto as Exhibit C and incorporated herein. The State Department has not provided a substantive response to this FOIA request, and has not produced any requested records.

10. On December 2, 2022 Plaintiff submitted three additional FOIA requests to the State Department making specific requests for additional types of documents related to Rwanda. As of the date of this complaint, the State Department has not responded to these requests. Copies of these requests are attached hereto as Exhibit D and incorporated herein. The State Department has not provided a substantive response to these FOIA requests, and has not produced any requested records.

11. As of the date of this Complaint, Defendant has failed to (a) notify Plaintiff of any determination regarding Plaintiff's FOIA Requests, including the scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; and (b) produce any requested records or demonstrate that the requested records lawfully exempt from production.

12. As a result, Plaintiff has constructively denied Plaintiff's FOIA Requests, and Plaintiff has thus exhausted administrative remedies. 5 U.S.C. § 552(A)(6)(C).

COUNT 1

Violation of FOIA for Failure to Respond to Plaintiff's Requests

13. Plaintiff repeats the allegations in the foregoing paragraphs and incorporates them as fully set forth herein.

14. Defendant's failure to timely provide a substantive response to Plaintiff's FOIA Requests violates 5 U.S.C. § 552(a)(6)(A), and Defendant's regulations, 22 C.F.R. § 171.11(e), (g).

COUNT II

Violation of FOIA for Failure to Make Records Available

15. Plaintiff repeats the allegations in the foregoing paragraphs and incorporates them as fully set forth herein.

16. Defendant's failure to promptly make available the records sought by Plaintiff's FOIA Requests violates 5 U.S.C. § 552(a)(3)(A). *See also* 22 C.F.R. § 171.11.

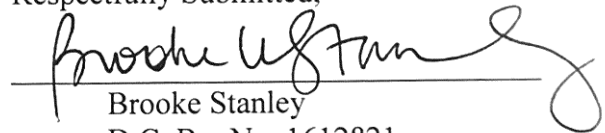
REQUESTED RELIEF

WHEREFORE, Plaintiff respectfully requests this Court to:

- (1) Declare that the records sought in Plaintiff's FOIA requests are public records under 5 U.S.C. § 552 and must be disclosed pursuant to law;
- (2) Order Defendant to immediately conduct searches to uncover all records responsive to Plaintiff's FOIA requests;
- (3) Order Defendant to immediately disclose, in their entirety, any and all non-exempt records responsive to Plaintiff's FOIA requests, as well as a *Vaughn* index of any records or portions of records withheld due to a claim of exemption;
- (4) Find that the Plaintiff is entitled to waiver of the search, review or duplication fees for processing Plaintiff's FOIA requests;
- (5) Award Plaintiff the costs of this proceeding, including reasonable attorneys' fees;
- (6) Grant Plaintiff such other relief as the Court deems just and proper.

Dated: February 10, 2023

Respectfully Submitted,



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